



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,296	07/27/2001	Boris Reydel	5426	6091

7590 03/19/2003

Breiner & Breiner, L.L.C.
P.O. Box 19290
Alexandria, VA 22320-0290

EXAMINER

ELOSHWAY, CHARLES R

ART UNIT	PAPER NUMBER
----------	--------------

3751

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,296

Applicant(s)

REYDEL ET AL.

Examiner

Charles R. Eloshway

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 12-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Claim Objections

2. Claim 2 is objected to because of the following informalities: In line 1, the word "with" should be inserted before "claim 1." Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 11 are unclear whether the toilet is intended to be included. Examiner's best understanding of the claims is the toilet is required in order to give definition to the location of the bar and the claims will be so construed in this action for the purposes of the prior art rejections that follow.

Claims 2 and 3 are unclear as to what is meant by "leg." The claims alternatively refer to "support members" and "legs." Claim 2, from which claim 3 depends only refers to legs. Yet it is clear that both the "support members" and the "legs" form the "suspension means."

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlieb et al. in view of Warner and O'Brien et al.

Gottlieb teaches rings (12) or (14) suspended at a height

above a toilet so as to allow the user to gradually lower himself/herself onto the toilet. See Gottlieb, col. 3, lines 20-34. Based on this teaching, the rings are considered to be of such a height as to allow the user to "passively semi-hang" therefrom.

Although Gottlieb teaches rings instead of a "horizontal bar," Gottlieb discloses that "any suitable body support or rest which is convenient for grasping by the patient" may be used. Gottlieb, col. 3, lines 22-25. Warner and O'Brien teach the use of "horizontal bars" for the purpose of helping a patient rise from and lower onto a chair, toilet or bed. In view of the Gottlieb suggestion and the Warner and O'Brien teachings, it would have been obvious to replace the Gottlieb rings with "horizontal bars" as a matter of design choice in which body support to use.

Allowable Subject Matter

7. Claims 2-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Claims 9-11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited teach various body supports or methods of treating constipation including features common to the disclosed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R. Eloshway whose telephone number is (703) 308-0104. The examiner can normally be reached on Monday-Thursday, 7AM-4PM.

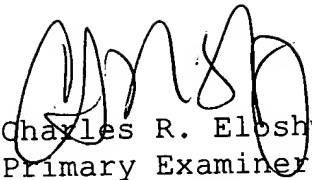
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.

Application/Control Number: 09/915,296

Page 6

Art Unit: 3751



Charles R. Elishway
Primary Examiner
Art Unit 3751

cre
March 16, 2003